

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

DEC 16 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Truth-in-Billing and
Billing Format

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)

CC Docket No. 98-170

REPLY COMMENTS OF BELL ATLANTIC MOBILE, INC.

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Dated: December 16, 1998

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DECLARATION OF ROGER GURNANI

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SUMMARY

The initial comments in this proceeding make two conclusions abundantly clear: (1) There is no record basis on which to impose any new billing regulations against providers of commercial mobile radio services. (2) The proposed rules are not only unnecessary but would confuse wireless customers and increase carriers' costs. BAM's initial comments objected to the Notice's "one size fits all" approach to regulation of the telecommunications industry and its disregard of the regulatory paradigm governing CMRS: that the Commission intervene in wireless markets only where there is a statutory requirement or a compelling factual basis to do so. BAM argued that neither prerequisite to regulation exists here. Other comments echo BAM's view. The record is remarkably uniform on the absence of any reason for imposing new rules against CMRS providers, particularly the detailed control of billing format and content that the Notice contemplates. Even the parties that support new rules do so based on concerns that arise in landline – but not wireless – billing, such as slamming and billing for non-telecommunications services.

No party expressly requests that the Commission apply any new rules to CMRS based on evidence that similar billing problems exist for wireless subscribers. To the contrary, wireless commenters demonstrate that the problems which the Commission seeks to address here are not relevant to wireless services. They show that imposing new billing rules on CMRS will actually harm the public interest by confusing consumers and adding to the cost and complexity of wireless carriers' billing systems, burdens that carriers will either have to absorb or pass on to customers. Given this record, the lawful and proper course is to end this proceeding without adopting new rules for CMRS providers.

**I. THE RECORD DOES NOT PERMIT IMPOSING
NEW BILLING RULES ON CMRS PROVIDERS.**

BAM, like other parties, supports the goal of protecting wireless subscribers from confusing or deceptive billing practices. Where there is evidence that improper practices exist, BAM agrees that the Commission could intervene to remedy those practices, and should set national rules to ensure consistent federal oversight of CMRS. By the same token, however, without a factual record of improper practices that require Commission action to correct, the Commission has no lawful basis to impose more regulation. BAM's initial comments explained why the federal deregulatory paradigm for wireless services precludes new regulation absent compelling information that it is needed.

The Notice did not document any deceptive wireless billing practices that could justify Commission intervention. Neither do the initial comments. There is again no documentation of consumer complaints, deceptive carrier practices or other situations that could supply grounds for considering new CMRS regulation. The record itself supplies the reasons.

First, competition ensures that carriers are responsive to subscribers' need for clear and complete billing information. The CMRS market is characterized by intense competition, in which new entrants and existing carriers pursue both present and potential subscribers. CMRS providers must anticipate and respond to the demands of their customers or risk losing them. Wireless carriers that submitted comments noted that competitive pressures force them to set forth the form and content of bills in a clear and direct manner.¹ They document the comprehensive information they already provide to customers about charges on their bills.²

¹ E.g., Comments of Personal Communications Industry Association, at 7; Comments of AirTouch Communications, Inc. (AirTouch), at 2; Comments of BellSouth, at 13; Comments of Nextel Communications, Inc., at 6; Comments of PrimeCo Personal Communications, L.P. (PrimeCo), at 2.

² E.g., Comments of PrimeCo, at 5 ("PrimeCo provides in its current bills much of the information proposed by the Commission . . . to prevent customer confusion"); Comments of CenturyTel, at 3 ("most wireless carriers, including CenturyTel, offer a highly detailed billing format that shows the charges for each call on a line-by-line basis"); Comments of AirTouch, at 3 ("AirTouch already provides bills in a format containing features that closely approximate the Commission's proposed mandates"); Comments of BellSouth, at 15 ("CMRS carriers include a variety of informative elements in their bills").

BAM agrees with other parties that the Notice, insofar as it includes CMRS in the scope of any new rules, seems to have seized on a solution before identifying a problem. Mr. Roger Gurnani, BAM's Vice President of Information Systems and Chief Information Officer, explains in his attached declaration that "BAM is already under tremendous competitive pressure to continue to enhance, replace or merge the functionalities" of its existing billing systems, and that "We continue to strive to give our company a competitive business advantage by providing clarity, accuracy and perspicuity to our bills." Decl. at ¶¶ 3-4. He details the efforts BAM makes to be responsive to the demands of its customers in the billing area as well as in other areas of service. Id. (These efforts recently won BAM an award from J.D. Power & Associates as the 1998 industry leader in overall customer satisfaction in New York, Boston, Washington/Baltimore and Pittsburgh. Id. at ¶ 5.)

Moreover, there is uncontroverted information in the record that CMRS customers are largely satisfied with the clarity of presentation on CMRS bills.³ For instance, Mr. Gurnani states that "Our own 1998 survey of our customers indicates that the majority of our customers agree that charges, payments and credits are clearly shown on their bills. BAM's customers rated our billing practices as among

³ E.g., Comments of PrimeCo, at 3 ("PrimeCo data confirms that complaints or questions regarding billing format/content are . . . insignificant"); Comments of Nextel, at 4 ("Nextel has learned through customer feedback and focus groups that its business customers are most concerned about issues unrelated to those raised in the Notice").

the highest of the attributes they consider important for their satisfaction.” Decl. at ¶ 5. To the extent problems develop, carriers are driven by market forces to address and resolve them promptly. Regulatory intrusion is unnecessary.

This emphasis on competition for customer satisfaction extends to carriers’ decisions to develop new revenues to offset their sharply increased costs caused by new payments to the federal government required by the universal service program, user fees, and other programs. CMRS providers were and remain mindful of their responsibility to maintain high customer satisfaction through full disclosure. For example, the record contains information that some wireless carriers are including a separate line item for federal charges that explain the imposition of the charge and its purpose.⁴

When BAM was faced with extraordinary increases in its costs resulting from the Commission’s imposition of sharply higher annual regulatory fees and the new Universal Service Fund assessment (charges that were not accompanied by any offset), BAM concluded that it would not be able to absorb these costs but would need to assess its customers. BAM properly explained the reason for the new charge to customers in separate mailings to customers before the charges began, in bill inserts, and in statements that accompany each and every bill. Customers are given a toll-free number that they can call about these charges. Gurnani Decl. at

⁴ Comments of SBC Communications, at 17.

¶ 6. The charges are not expected to exceed BAM's aggregate costs resulting from the multiple federal programs.

Second, the principal billing problems the Notice identifies, slamming by interexchange carriers and cramming by non-telecommunications providers, do not exist in CMRS. The Notice asserts that rules are needed because of these practices in particular. But the record shows that these problems largely result from the ways in which landline long distance and other third-party services are provided and billed. Wireless carriers state that they have not received complaints of cramming and slamming.⁵ Significantly, even the state public utility commissions, state attorneys general and consumer groups filing comments focus solely on complaints of slamming and cramming in the landline industry.⁶ Congress too has recognized that slamming is a landline long distance problem. In recent proposed legislation to regulate billing practices, Congress explicitly carved out an exception for CMRS based on its finding that “the number of slamming complaints [within the

⁵ Comments of Nextel, at 8; Comments of PrimeCo, at 5; Comments of The Rural Cellular Association, at 2.

⁶ Comments of the National Association of Attorneys General; Comments of the Minnesota Office of Attorney General; Comments of the Mississippi Public Service Commission; Comments of the Maine Public Utilities Commission; Comments of the Florida Public Service Commission; Comments of the Kansas Corporation Commission; Comments of the National Association of Consumer Agency Administrators; Comments of Billing Reform Taskforce.

wireless industry] have been negligible.”⁷ Concern with third party billing practices is equally irrelevant to CMRS. Wireless carriers supply uncontradicted information that they generally do not perform billing and collection services for unknown third parties,⁸ and that wireless carriers and customers enter into service agreements that clearly set forth the rates, terms and conditions of service.⁹

In short, the uncontradicted record shows that market forces are more than sufficient to ensure straightforward and comprehensive CMRS bills. Given the absence of information which documents the need for market intervention through regulation, the Commission cannot lawfully take that action

II. NEW CMRS BILLING RULES WOULD BURDEN CARRIERS BUT WOULD NOT BENEFIT CUSTOMERS.

Many commenters share BAM’s concern that the Notice casually swept CMRS into the scope of its extensive and detailed proposals and unlawfully failed to consider the impact of new rules on CMRS carriers and customers. They explain that these rules will disserve consumers by raising rates and increasing confusion.

⁷ S. 1618, 105th Cong. 2d Sess., § 101(a) (1998); S. Rep. No. 105-183, at 8 (1998); H.R. 3888, 105th Cong. 2d Sess. § 101 (1998), H.R. Rep. No. 105-801 (1998).

⁸ Comments of SBC, at 7; Comments of Nextel, at 2.

⁹ Comments of Nextel, at 6; Comments of CTIA, at 4; see also Comments of the Education and Library Networks Coalition, at 6 (“We are not concerned here with rates set in negotiated contracts, since these rates are expressly agreed to by subscribers and they presumably have copies of any contracts.”).

For instance, under the proposed rules, wireless carriers would have to modify their current billing systems in which they have made major investments, ironically for the purpose of providing consumer-friendly bills. Complying with the new regulations will require redesigning already innovative billing systems at an enormous cost.¹⁰ BellSouth estimates that it would cost between \$500,000 and \$1,000,000 simply to add the additional page of billing information that would be required under the Notice's "summary page" proposal.¹¹

Mr. Gurnani documents the tens of millions of dollars that BAM has invested in continually improving its billing systems, and explains why reconfiguring those systems to meet new government requirements would require still larger investments. Decl. at ¶ 2. For example, providing a separate bill page to show any changes from the prior billing period, and to provide a visual separation of different services organized by provider, would cost approximately \$5 million in systems development work alone. Expanded bills will result in larger mailings, which will in turn cost millions of dollars more in postage. Id. These costs will either lead to higher rates or must be absorbed by carriers, diverting funds that could be spent on improving customer service or investing in new network infrastructure.

¹⁰ E.g., Comments of AirTouch, at 2; Comments of PCIA, at 3, 7; Comments of CTIA; at 13.

¹¹ Comments of BellSouth, at 15.

There is also record information that indicates the remedies proposed by the Commission will cause the precise harm that the rules are designed to foreclose: customer confusion. For example, AirTouch and BAM noted that a rule that carriers “clearly and conspicuously” identify the name of the service provider would mandate that wireless carriers identify the facilities-based provider of their resold service for every roaming phone call. “[C]ustomers will likely be baffled by inclusion on their bills of the names of service providers that they have never heard of or contacted with.”¹² BAM also explained why the proposal to separate charges into “local” and “long-distance” charges disregarded the market structure for CMRS and was inconsistent with the Commission’s own rulings in the CPNI proceeding.¹³

The initial comments thus show that the Notice’s proposals for new billing rules are at best unworkable for CMRS and at worst will disserve wireless carriers and subscribers.

CONCLUSION

The record does not justify imposing new billing requirements on CMRS providers. Congress has mandated that market forces rather than regulation be relied on to ensure the growth of a wireless industry that serves subscribers. The

¹² Comments of AirTouch, at 7; Comments of BAM, at 12; Comments of Nextel at 13-14.

¹³ Comments of BAM at 11-12.

course of action that is consistent with the record and that mandate is to terminate this proceeding without imposing new billing rules on CMRS providers.

Respectfully submitted,

BELL ATLANTIC MOBILE, INC.

By: John T. Scott, III
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Crowell & Moring LLP
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 624-2500

Its Attorneys

Dated: December 16, 1998

DECLARATION OF ROGER GURNANI

1. I am the Vice President of Information Systems and Chief Information Officer of Bell Atlantic Mobile (BAM), the largest wireless carrier on the East Coast. I have personal knowledge of the development and operation of billing, customer care, point-of-sale and corporate business systems. I also manage the computer data centers and network facilities used for internal voice and data communications. I have extensive experience with information technology and the telecommunications industry. I hold a Bachelors in Industrial Engineering and a Masters in Systems Engineering from Auburn University.

2. BAM has two major billing systems known as "I2K" and "Vision". Both the I2K and Vision systems were individually developed for BAM at a significant cost. The I2K and Vision billing systems are very complex, comprising 7 million lines of code and performing thousands of functions. These systems support and bill millions of customers. BAM has gone through a series of major billing conversions over the last several years as we overhauled and upgraded our systems to allow us to record, bill, provide new competitive service offerings and better serve our customers. These conversions have been lengthy and costly in nature, but were required to provide the company with advanced billing capabilities and synergy. For example, BAM converted its Northeast markets to I2K in 1996 at a cost of approximately \$10 million and with nine

months effort. In 1997, BAM converted its Southeast market to Vision at the cost of \$16 million, taking 18 months to complete. BAM is now in the process of converting another market to I2K which will take nine months and cost between \$6 and \$8 million. In light of the enormous task of converting our multiple billing systems to a single upgraded system, mandated billing changes due to the FCC's billing proposal would be an enormous extra distraction, burden and expense. For example, in order to implement the Commission's proposal to provide a separate page to highlight any changes from the prior billing period and to provide a visual separation of different services organized by provider into our billing systems the cost would run approximately \$5 million in systems development work desired. We would have to expand the storage capacity and programming logic in both our billing systems significantly. The bill would also need to be expanded to accommodate this, which would raise our postage costs significantly in the mailing of 80 million bills next year, increasing in number by 12% to 15% in subsequent years. One ounce increase in postage will cost BAM an additional \$18.4 million in one year.

3. BAM is already under tremendous competitive pressure to continue to enhance, replace or merge the functionalities of these existing systems. For example, new rate plans such as BAM's SingleRate plans, which combine roaming, long distance, local and airtime charges into one discounted bundled price, regardless of where the customer is located, where they place the call or where they are calling from, require significant continuing programming changes. In addition, we are burdened by pre-existing government mandates and business imperatives requiring changes to our business at

significant expense, such as CPNI audit trails, wireless local number portability, and E911. Therefore, because of the significant capacity problems that the Commission's proposal would create for these computer systems, other system enhancements, currently planned or projected for the business would likely have to be foregone.

4. Billing is one factor that makes BAM successful in the competitive wireless arena.

We continue to strive to give our company a competitive business advantage by providing clarity, accuracy and perspicuity to our bills. Federal billing mandates would tend to homogenize all carriers' bills. Regulation leads to standardization, retarding innovation and reducing an individual company's accountability for its own billing decisions. BAM already provides much of the information suggested in the Notice, including a summary of current charges identifying the customer's separate long distance carrier if any and providing a toll free number for the customer to call if they have questions.

5. We "market test" our customer's satisfaction with our billing decisions continuously with the millions of bills we send to our customers each year. Government mandated billing formats, no matter how well intentioned, may miss the mark of what customers really want and need without any ready ability to be corrected. Our experience has been that our bills are not confusing to our customers. Our own 1998 survey of our customers indicates that the majority of our customers agree that charges, payments and credits are clearly shown on their bills. BAM's customers rated our billing practices as among the highest of the attributes they consider important for their satisfaction. BAM's success

in providing consumers with the billing information and other services they want has recently been recognized by the leading market research firm. BAM ranked first in customer satisfaction in four major markets according to the 1998 J.D. Power and Associates Wireless Customer Satisfaction study. J.D. Power and Associates is a nationally recognized marketing services firm devoted to market research and analysis of customer satisfaction. The firm's quality and satisfaction measurements are based on responses of more than one million consumers annually. J.D. Power concluded that BAM is the 1998 industry leader in overall customer satisfaction in New York, Boston, Washington/Baltimore and Pittsburgh.

6. BAM is committed to billing its customers in a way that they understand and accept. Even when faced with having to add new charges, BAM proceeded in a manner that was founded on maintaining high customer satisfaction. As BAM was faced with extraordinary increases in its costs arising from the FCC's 71% increase in User Fees from 1996-1998 and the new assessment for the Federal Universal Service Fund for Schools and Libraries. We did not receive any offsetting decreases in federal assessments. BAM concluded that it would not be able to absorb these costs but would need to assess its customers. We developed and implemented a 62¢ Federal Universal Service and Regulatory Charge. We alerted customers of the new charge 30 days in advance, in a special detailed bill message, describing the reason for the future charge with a toll free customer service number they could call if they needed additional

information (Exhibit1). In addition, a buck slip explaining the charge was prominently displayed at the point of sale in stores in order to avoid surprise by new customers who purchased service after the charge was implemented (Exhibit 2). Furthermore, on every customer bill there is a monthly recurring bill message, which again offers an explanation of the Federal Universal Service and Regulatory charge as well as a toll free number to receive additional detailed information (Exhibit 3). In short, BAM provided both old and new customers with an accurate explanation of the charge.

7. In conclusion, the wireless industry must remain focused on high customer satisfaction in its billing practices, free of disruptive government intrusion.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

December 1, 1998

A handwritten signature in cursive script, reading "Roger Gurnani", is positioned above a horizontal line.

ROGER GURNANI



CUSTOMER ACCOUNT NO:
MOBILE TELEPHONE NO:

INVOICE NO:
INVOICE DATE: FEBRUARY 10, 1998

BILL MESSAGES:

FEDERAL UNIVERSAL SERVICE AND REGULATORY CHARGE

The Federal Government has imposed several additional costs on wireless carriers.

The Federal Government now assesses wireless carriers to fund the delivery of universally – affordable telecommunications and information services to all Americans, including low – income consumers, all eligible schools and libraries and rural health care providers.

The Federal Communications Commission also assesses wireless carriers to recover the costs of enforcement, policy and rulemaking.

Due to increased costs to Bell Atlantic Mobile resulting from these assessments, Bell Atlantic Mobile has established a Federal Universal Service and Regulatory Charge. This charge will be 62 cents per month per cellular telephone number. This charge will be assessed beginning in your March of 1998 bill and may periodically change. Customers who have a tax exempt status are not exempt from this charge.

ⓐ Bell Atlantic Mobile

Federal Universal Service and Regulatory Charge

The Federal Government now assesses wireless carriers to fund the delivery of universally-affordable telecommunications and information services to all Americans, including low-income consumers, all eligible schools and libraries and rural health care providers.

The Federal Communications Commission also assesses wireless carriers to recover the costs of enforcement, policy and rulemaking, and user information activities for the year.

Due to increased costs to Bell Atlantic Mobile resulting from these assessments, Bell Atlantic Mobile has established a Federal Universal Service and Regulatory Charge. This charge will be \$.62 per cellular telephone number and will be collected on a monthly basis. This charge will be assessed beginning March 1, 1998 and may periodically change. Customers who have a tax exempt status are not exempt from this charge.

If you need more information,
Please call Customer Service at :

Pittsburgh	1-800-922-0204
Philadelphia Region	1-800-922-0204
Washington/Baltimore Region	1-800-922-0204
Southeast	1-800-922-0204
New York Metro/New Jersey	1-800-227-1069
Northern New England	1-800-538-4747
Southern New England	1-800-852-3630



HOW TO READ YOUR BILL

Page: 2

Your Cellular Service Agreement, any applicable tariff and your Price Plan sets your and our rights. The items below are only for your information and convenience.

Monthly Access Charge is the monthly service or access charge. Paying this charge gives you access to the BAM cellular network. It is billed one month in advance. On your first bill or when a service change occurs, you will be billed a prorated portion of the monthly access charge calculated from the date you began service to your first bill cycle date or the effective date of the service change, plus the next month's service charge. Prorate charges appear in the Other Charges and Credits section of the bill.

Enhanced Services include special calling features, such as Voice Mail, TalkDial, etc., you have ordered to enhance the value of your service. These charges may be billed one month in advance, and may be prorated based on the effective starting and ending dates of the enhanced service charge. Prorate charges appear in the Other Charges and Credits section of the bill.

Other Charges and Credits include any credit and charge adjustments for the current and/or prior billing periods. Also included is the Federal Universal Service and Regulatory Fee which was established due to increased costs to Bell Atlantic Mobile resulting from assessments from the Federal Government.

Home Airtime Charges are billed in full minute increments for incoming calls received as well as outgoing calls made by cellular users in their home system as defined by Price Plan or other special offerings. Charges for calls that connect begin when you first press "SEND" and end when the call disconnects from the cellular system. There is no charge for busy signals or unanswered calls on the BAM system. Home Airtime charges reflect call activity during the current bill cycle and may include calls made during prior cycles.

Related Call Charges:

Landline Charges are the handling fees that you incur when you place a cellular call that is processed through a local telephone company. This charge applies to calls connected to a landline telephone number, a pager or a cellular phone not on the BAM network. The landline charges do not apply when making any cellular regional calls, cellular long distance calls or calls to "800" or "877" or "888" numbers. These charges are in addition to your airtime charges and allowances, and may vary according to price plan. Landline charges may vary when roaming based on charges established by the visited system and BAM.

Regional Calling, Toll and Cellular Long Distance Charges are in addition to the home airtime charges for your calls. You will incur either toll, regional calling or cellular long distance charges when you are in a cellular local calling area and place a call to a number outside that area. These charges may apply to calls completed through enhanced network services such as Call Forwarding, No Answer Transfer and Automatic Call Delivery. Your cellular local calling area may differ from your home airtime rate area. As with all cellular calls, these charges are based on your location at the start of the call and do not change even though you may move during the call. Cellular long distance charges may vary while roaming based on the rates of the visited system.

Roaming Charges apply when you make or receive a call outside your home airtime rate area or use another company's system. Airtime minutes used while roaming are not part of your service plan minute allowance, unless your price plan specifies otherwise. All roaming charges vary based on rates established by the visited system and by BAM. While roaming you may incur landline charges, charges for incomplete calls, busy signals, or unanswered calls. If applicable, you may also incur long distance, toll or regional calling charges. Charges may also include daily surcharges, taxes and call delivery charges. Incoming calls while roaming include airtime and toll or long distance or regional calling charges. If applicable, roaming charges are itemized in the Usage Detail section and designated by an "R" next to each call.

Equipment Charges include any charges for equipment and accessories billed to your account.

Surcharges and Taxes include federal, state, local, and other taxes, surcharges, assessments and government fees where applicable.

Late Payment Charges result if any portion of a payment is still outstanding at the time of the payment due date. The current applicable rate is 1.5% monthly (18% annually) on any outstanding balance.

Due to automated payment processing, inquiries or requests included with your payment are sometimes not noticed. For prompt attention, please send your written communication to this address or contact Customer Service at 1-800-852-3630 or call *611 from your cellular phone.

Send all written communication to:
Bell Atlantic Mobile
20 Alexander Drive
PO Box 5029
Wallingford, CT 06492-7529

Visit us on our Web site @ www.bam.com

CHANGE OF MAILING ADDRESS SECTION ONLY: Please contact Customer Service to change the name.

Please Indicate Address Change Below:

Account / Mobile Number: _____

Address: _____
(Please Print)

City: _____

State: _____ Zip: _____

Can be reached at the following telephone numbers:

Day: () _____
Area Code Telephone
Evening: () _____
Area Code Telephone

*Please allow two bill cycles before an address change can take effect.